

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

DEVERSON DORCEUS,

Plaintiff,

v.

CITY OF NEW YORK, NEW YORK CITY
DEPARTMENT OF EDUCATION and RICHARD
DIXON,

Defendants.

ORDER

15-CV-3841 (MKB) (LB)

MARGO K. BRODIE, United States District Judge:

Plaintiff Deverson Dorceus, proceeding *pro se*, commenced this action on June 30, 2015, against Defendants City of New York, New York City Department of Education and Richard Dixon, alleging violations of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-5, and the New York State Human Rights Law § 296. (Compl., Docket Entry No. 1.)

Plaintiff's application to proceed *in forma pauperis* was denied in November 2015, and he was ordered to pay the filing fee. (Order dated Nov. 9, 2015, Docket Entry No. 5.) Plaintiff paid the filing fee on November 20, 2015. By Order dated November 30, 2015, Magistrate Judge Lois Bloom granted Plaintiff an extension of time to serve Defendants and directed Plaintiff to serve Defendants with the Summons and Complaint by January 29, 2016, pursuant to Rule 4(m) of the Federal Rules of Civil Procedure. (Order dated Nov. 30, 2015, Docket Entry No. 8.) Judge Bloom warned Plaintiff that if he failed to file proof that Defendants were timely served with process or failed to show good cause why they were not served by January 29, 2016, the Judge would recommend that the action be dismissed pursuant to Rule 4(m). (*Id.*) As of the date of this Order, Plaintiff has not served the Complaint on Defendants.

By Report and Recommendation dated June 3, 2016 (“R&R”), Judge Bloom recommended that the Court dismiss Plaintiff’s claims without prejudice for failure to timely serve Defendants pursuant to Rule 4(m) of the Federal Rules of Civil Procedure. (R&R 2, Docket Entry No. 9.) Plaintiff has not opposed the R&R.

A district court reviewing a magistrate judge’s recommended ruling “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). “Failure to object to a magistrate judge’s report and recommendation within the prescribed time limit ‘may operate as a waiver of any further judicial review of the decision, as long as the parties receive clear notice of the consequences of their failure to object.’” *Sepe v. N.Y. State Ins. Fund*, 466 F. App’x 49, 50 (2d Cir. 2012) (quoting *United States v. Male Juvenile*, 121 F.3d 34, 38 (2d Cir. 1997)); *see also Almonte v. Suffolk Cty.*, 531 F. App’x 107, 109 (2d Cir. 2013) (“As a rule, a party’s failure to object to any purported error or omission in a magistrate judge’s report waives further judicial review of the point.” (quoting *Cephas v. Nash*, 328 F.3d 98, 107 (2d Cir. 2003))); *Wagner & Wagner, LLP v. Atkinson, Haskins, Nellis, Brittingham, Gladd & Carwile, P.C.*, 596 F.3d 84, 92 (2d Cir. 2010) (“[A] party waives appellate review of a decision in a magistrate judge’s report and recommendation if the party fails to file timely objections designating the particular issue.” (citations omitted)).

The Court has reviewed the unopposed R&R and, finding no clear error, the Court adopts Judge Bloom's R&R in its entirety pursuant to 28 U.S.C. § 636(b)(1). This action is dismissed without prejudice for failure to timely serve Defendants pursuant to Rule 4(m) of the Federal Rules of Civil Procedure. The Clerk of Court is directed to close this case.

SO ORDERED:

s/ MKB
MARGO K. BRODIE
United States District Judge

Dated: June 22, 2016
Brooklyn, New York